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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 RICKY L. THOMAS,

12 Plaintiff,

13 v.

14 SHIRLEY, *et al.*,

15 Defendants.
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Case No. 1:23-cv-00470 JLT BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING THE
ACTION WITHOUT PREJUDICE, AND
DIRECTING THE CLERK OF COURT TO
CLOSE THIS CASE

(Doc. 48)

17 Ricky L. Thomas is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil
18 rights action pursuant to 42 U.S.C. § 1983, in which he sought to hold the defendant liable for
19 deliberate indifference in violation of the Eighth Amendment. (*See* Docs. 11, 20.) The
20 magistrate judge ordered Plaintiff to show cause why the Court should not dismiss the action for
21 Plaintiff's failure to prosecute. (Doc. 47.) After Plaintiff failed to respond, the magistrate judge
22 found Plaintiff failed to prosecute the matter and failed to obey the Court's orders. (Doc. 48.)
23 The magistrate judge considered the factors identified by the Ninth Circuit in *Henderson v.*
24 *Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986), and found terminating sanctions are appropriate.
25 (*Id.* at 3-4.) Therefore, the magistrate judge recommended the Court dismiss the action without
26 prejudice "for failure to prosecute and for failure to obey court orders." (*Id.* at 4.)

27 The Court served the Findings and Recommendations on the parties and notified Plaintiff
28 that any objections were due within 14 days. (Doc. 48 at 4.) The Court advised Plaintiff that the

1 “failure to file objections within the specified time may result in the waiver of the ‘right to
2 challenge the magistrate’s factual findings’ on appeal.” (*Id.*, quoting *Wilkerson v. Wheeler*, 772
3 F.3d 834, 838-39 (9th Cir. 2014).) Neither Plaintiff nor Defendant filed objections, and the time
4 to do so has passed.

5 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.
6 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
7 are supported by the record and proper analysis. Thus, the Court ORDERS:

- 8 1. The Findings and Recommendations issued on January 13, 2025 (Doc. 48), are
9 **ADOPTED** in full.
- 10 2. This action is **DISMISSED** without prejudice, for Plaintiff’s failure to prosecute
11 and failure to obey a court order.
- 12 3. The Clerk of Court is directed to terminate all pending motions and close this case.

13
14 IT IS SO ORDERED.

15 Dated: **February 13, 2025**


UNITED STATES DISTRICT JUDGE